

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA

3 STATE OF OKLAHOMA, ex rel.
4 W. A. DREW EDMONDSON, in his
5 capacity as ATTORNEY GENERAL
6 OF THE STATE OF OKLAHOMA and
7 OKLAHOMA SECRETARY OF THE
8 ENVIRONMENT C. MILES TOLBERT
9 in his capacity as the TRUSTEE
10 FOR NATURAL RESOURCES FOR
11 THE STATE OF OKLAHOMA,

12 Plaintiffs

13 vs.

05-CV-0329 GKF SAJ

14 TYSON FOODS, INC., TYSON
15 POULTRY, INC., TYSON CHICKEN,
16 INC., COBB-VANTRESS, INC.,
17 AVIAGEN, INC., CAL-MAINE FOODS,
18 INC., CAL-MAINE FARMS, INC.,
19 CARGILL, INC., CARGILL TURKEY
20 PRODUCTION, LLC, GEORGE'S, INC.,
21 GEORGE'S FARMS, INC., PETERSON
22 FARMS, INC., SIMMONS FOODS, INC.,
23 and WILLOW BROOK FOODS, INC.,

24 Defendants

25 VOLUME II
VIDEOTAPE DEPOSITION OF ALAN LEE FORD
Taken on Behalf of the Defendants
On July 21, 2008, beginning at 9:00 a.m.
In Oklahoma City, Oklahoma

APPEARANCES:

Appearing on behalf of the PLAINTIFF STATE OF
OKLAHOMA

Robert A. Nance, Attorney at Law
Trevor Hammons, Attorney at Law
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1 MR. THOMPSON: On the phone?

2 MS. GRIFFIN: Jennifer Griffin for
3 Willowbrook Foods.

4 MR. SANDERS: Bob Sanders for Cal-Maine.

5 ALAN LEE FORD,
6 having been previously duly sworn, deposes and
7 says in reply to the questions propounded as
8 follows, to-wit:

9 CONTINUED DIRECT EXAMINATION

10 BY MR. BOND:

11 Q Mr. Ford, nice to see you again.

12 The videographer called you Scott Forward
13 on the introduction, and you're Alan Ford; that's
14 correct, right?

15 A My name is Alan Lee Ford.

16 Q Okay. And I previously took the first
17 part of your deposition on June 30th, 2008.

18 Do you recall that?

19 A Yes, sir.

20 Q Okay. And we're back here today to do
21 some followup on some questions that I had asked.

22 During that deposition that we did not
23 have complete answers, at least in my opinion, to
24 those -- to those questions, and you agreed to
25 reappear?

1 correct?

2 **A** It looks like it could be Elk Creek. This
3 here is Elk Creek up here, and I see that it runs
4 down this way (indicating).

5 **Q** Okay.

6 **A** All right.

7 **Q** All right. I also asked you in your
8 deposition on 6/30/2008, how long Cookson Wildlife
9 Management Area had been used for, you know, hunting
10 activities and game management, and you were not
11 able to answer that question then.

12 Are you able to answer it now?

13 **A** Yes, sir. Since the late '40s.

14 **Q** Okay. We had also discussed the use of
15 fertilizer at Cookson Wildlife Management Area.

16 Do you recall that?

17 **A** Yes, sir.

18 **Q** Okay. And you told me that in 2008, two
19 tons of 9-23-30 was used on approximately 30 acres,
20 and 25 tons of lime was broadcast on approximately
21 16 acres. Do you recall that?

22 **A** Yes, sir.

23 **Q** I had asked you if you knew the location
24 of the applications of the 9-23-30 and the lime, and
25 you did not know. Do you know the answer to that

1 **A** Yes, sir.

2 **Q** Okay. When we talked before, you told me
3 that 2000 pounds of fertilizer are applied at the
4 athletic fields at Northeastern State University.

5 Do you recall that?

6 **A** Yes, sir, I do.

7 **Q** All right. Do you know how long they've
8 been applying this 2,000 -- at this 2,000-pound rate
9 to those fields?

10 **A** I do not.

11 **Q** Okay. Can you identify on Exhibit 15
12 which properties receive the application of
13 fertilizer?

14 **A** Sure. Bear with me. See if I can find
15 them.

16 One of them is going to be Line 918.
17 That's the only one I can point at on the
18 spreadsheet.

19 **Q** Okay. So that one is 918, and it's five
20 acres?

21 **A** Yes, sir.

22 **Q** And it's a soccer complex?

23 **A** Yes, sir.

24 **Q** So that five acres is what receives the
25 2,000 pounds of fertilizer?

1 properties that were in the four counties.

2 Q Okay. Do you have a map that outlines the
3 Illinois River Watershed?

4 A Yes. I have the exhibit that was provided
5 to me, which is in a different scale than, say, for
6 instance, my first county has.

7 Q Let's talk about Lake Tenkiller --

8 A Okay.

9 Q -- State Park.

10 In your deposition, you told me that in
11 April of 2006 Urea 4600 was used at a rate of
12 100 pounds per acre for new lagoon grass at Lake
13 Tenkiller State Park.

14 Do you recall that?

15 A Yes.

16 Q And that five pounds annually 10-20-10
17 fertilizer is applied to the flowers at the park
18 office?

19 A Yes.

20 Q Do you recall that?

21 A Yes.

22 Q So is it the State of Oklahoma's testimony
23 that that is the only fertilizer that has ever been
24 used at Lake Tenkiller State Park?

25 A That's correct.

1 old system which no longer exists. In other words,
2 they didn't use that part, so they demolished it.
3 It's not going to show that it's still there, it's
4 going to show that it was demolished.

5 Q But, historically, it would show where it
6 was?

7 A Sure.

8 Q The old plans would.

9 Do you have any knowledge about the
10 condition of the old system during its lifetime
11 prior to replacement?

12 A What I do know is that the system was --
13 they were having some problems in late 1999, and
14 that that was part of the reason why they designed
15 and built an entire new system.

16 Q Okay. And those problems were what?

17 A Excuse me?

18 Q What were the problems in 1999?

19 A There was a holding tank under water in
20 the parking lot. There were some problems with a
21 lift station not being secured, a fence not being
22 around the lift station.

23 Q Is that all of the problems?

24 A There were some inspections done by the
25 Department of Environmental Quality where they

1 found -- that they suspected to be some of the dikes
2 were seeping.

3 Q Do you know as a percentage how much of
4 the old system was replaced when they did the
5 improvements?

6 A Just about every bit of it.

7 Q Okay. So --

8 MR. NANCE: Counsel, if I may, this chart
9 shows what was demolished and replaced. I mean, if
10 you want to go through point by point -- I don't
11 want you to go ahead not knowing that that
12 information is on the set of diagrams so you can use
13 your time as most beneficial to you.

14 MR. BOND: All right. Let me just look at
15 it real quick and see if there's any specific
16 questions I want to ask about it.

17 BY MR. BOND:

18 Q Do you know where those types of things
19 are shown on these plans?

20 A Sure. Well, you really need the legend.

21 Q Oh, okay.

22 MR. NANCE: Look for a hexagon. That
23 shows you something that's been demolished.

24 A This is a demolition item right here
25 (indicating), so anywhere you see those is a

1 **A** That's correct.

2 **Q** Was that because they did not apply
3 outside the lagoons?

4 **A** That's because they did not apply outside
5 the lagoons, yes, sir.

6 **Q** Okay. I think we have made some
7 supplemental inquiry about fertilizing some of these
8 waste management areas -- wildlife management areas.
9 Let me ask you if we have determined whether or not
10 there was any fertilizer applied in the past at the
11 Cookson Wildlife Management Area?

12 **A** No, sir, there's none.

13 **Q** Do you have a handwritten note?

14 **A** Yes, I do. Okay. I'm sorry.

15 This information provided to me by
16 counsel. Now, what facility are we talking about?
17 I'm sorry.

18 **Q** Cookson.

19 **A** They fertilized last year roughly the same
20 amount as this year. They fertilized approximately
21 five times in the last ten years. Fertilizer was
22 applied after a soil test was conducted.

23 They're growing clover for these wildlife
24 management areas, is what they're doing. They've
25 got four fields east of the headquarters building

1 which is on the west side of the W May, about
2 halfway between north and south to both northern and
3 southern boundaries.

4 Q Okay. What about fertilizing in the past
5 on the Cherokee Wildlife Management Areas?

6 A They have fertilized for the last several
7 years ago -- or several years ago. Again, they're
8 growing clover. They're applying basically at the
9 same rate that they do at the Cookson Wildlife
10 Management Area.

11 Q Okay.

12 A Five times in the last ten years,
13 somewhere in there.

14 Q All right, sir. There was some discussion
15 you had with Mr. Bond about the date of the
16 construction of the pit privies in the Scenic Rivers
17 Access Areas.

18 Do you recall that testimony?

19 A Yes, sir.

20 Q As a result of additional inquiry, can you
21 give us any more precise date of the construction of
22 those various pit privies?

23 A They were all built between 1988 and 1994.

24 Q Okay.

25 MR. NANCE: Mr. Bond, can I borrow one of